



S/N 10/690,122

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: CLARK ET AL. Examiner: J. CHENG
Serial No.: 10/690,122 Group Art Unit: 3713
Filed: OCTOBER 20, 2003 Docket No.: 1165.54USC4
Title: DYNAMIC ON-LINE SCORING GUIDE AND METHOD

CERTIFICATE UNDER 37 CFR 1.8:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450 Alexandria, Virginia 22313-1450 June 8, 2005.

By:

Kristine A. Wacek

Name: Kristine A. Wacek

TERMINAL DISCLAIMER TO OBVIATE
A DOUBLE PATENTING REJECTION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

23552

PATENT TRADEMARK OFFICE

Dear Sir:

Petitioner, NCS Pearson, Inc., a corporation organized and existing under the laws of the State of Minnesota and having its primary place of business at 5601 Green Valley Drive, Bloomington, Minnesota 55437 represents that it is the owner of the entire right, title and interest in U.S. Patent Application Serial No. 10/690,122, filed on October 20, 2003 and entitled DYNAMIC ON-LINE SCORING GUIDE AND METHOD, by virtue of our assignment recorded at Reel 006546, Frame 0796 and our change of name recorded at Reel 011541, Frame 0761.

Petitioner, NCS Pearson, Inc., hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term of U.S. Patent Nos. 5,690,497 and 6,155,839 and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent Nos. 5,690,497 and 6,155,839, this agreement to run with any

patent granted on the above-identified application and to be binding upon the grantee, its successors, or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the above-identified application that would extend to the full statutory term as presently shortened by any terminal disclaimer of United States Patent Nos. 5,690,497 and 6,155,839, in the event that United States Patent Nos. 5,690,497 and 6,155,839 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims cancelled by a reexamination certification, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

For submissions on behalf of an organization (e.g. corporation, partnership, university, government agency, etc.), the undersigned (whose title is supplied below) is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: JUNE 8, 2005

Kate DeVries Smith
Katherine M. DeVries Smith
Reg. No. 42,157
KDS:PLSkaw